

Status Report on Proposed Regulation 19133

On October 1, 2002, staff received authorization from the Board to proceed with the formal rulemaking process for the above proposed regulation. The Franchise Tax Board's Filing Enforcement system identifies individual taxpayers who have not filed a personal income tax return when a return appears to be required based upon information available to the department. Revenue and Taxation Code section 19133 provides the Franchise Tax Board with the discretionary authority to assess a notice and demand penalty upon those taxpayers who fail to file a tax return upon notice and demand by the Franchise Tax Board.

The proposed regulation is to clarify under what circumstances the Franchise Tax Board will impose a notice and demand penalty upon individual taxpayers. Under the proposed regulation, the Franchise Tax Board will impose the notice and demand penalty only upon those individual taxpayers who are determined to be "repeat nonfilers." A repeat nonfiler is an individual who has received a proposed assessment of tax after receiving and failing to respond to either a request for tax return or a demand for tax return within the previous four years. A repeat nonfiler who fails to respond to a current demand for tax return in the manner and within the time period specified on the demand for tax return will be subject to the imposition of the notice and demand penalty, which is equal to 25 percent of the total tax liability without regard to any payments or credits.

The proposed regulation has been submitted to the State and Consumer Services Agency for approval.